

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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FREDRIC JOEL COHEN, M.D., P.C. (Edward J. Raynie
and Katena L. Raynie),

Plaintiff,

Civ. No. 08-00451-(GBD)(HP)

-against-

AMENDED ANSWER

UNITED HEALTHCARE OF NEW YORK, INC. and
CABLE AND WIRELESS USA, INC.,

Defendants.

-----X
Defendant, UNITED HEALTHCARE INSURANCE COMPANY (sued herein as
“United Healthcare of New York, Inc.”)(“United”), by and through its attorneys, Rivkin Radler
LLP, states upon information and belief for its Answer to the Endorsed Complaint of Plaintiff,
FREDRIC JOEL COHEN, M.D., P.C. (“Plaintiff”) in this action as follows:

1. United denies having knowledge or information sufficient to form a belief as to
the truth or falsity of the allegations contained in the paragraph of the Complaint captioned
“Jurisdiction and Venue”, except United admits that it is a domestic corporation with a place of
business located at 7 Hanover Square, New York, New York 10004. United further responds to
the allegations contained in that paragraph of the Complaint by referring all questions of fact and
law to this Honorable Court for resolution.

2. United denies having knowledge or information sufficient to form a belief as to
the truth or falsity of the allegations contained in the paragraph of the Complaint captioned “First
Cause of Action”, except United admits that at certain times Edward J. Raynie and Kiten L.
Raynie (referenced in the above caption as “Edward J. Raynie and Katena L. Raynie”)(the

“Enrollees”) were enrolled in a group medical plan known as the “Cable & Wireless Medical Plan (the “Plan”) which, upon information and belief, was established by or on behalf of Defendant, CABLE AND WIRELESS USA, INC. (“C&W”), for which United and/or certain entities affiliated with it provided certain administrative services, that the Plan was assigned Group Plan No. 19039, and that Edward J. Raynie was assigned the identification number referenced in that paragraph. United further responds to those allegations by denying that it insured the Plan, that it breached any obligations it may have to Plaintiff, the Plan, C&W, or the Enrollees, or that it owes any sums to Plaintiff.

FIRST AFFIRMATIVE DEFENSE

Plaintiff’s Complaint fails, in whole or in part, to state a claim upon which relief can be granted as against United.

SECOND AFFIRMATIVE DEFENSE

Plaintiff’s claims against United are barred, in whole or in part, by the terms, conditions, limitations, and exclusions to coverage and/or benefits applicable under the terms of the Plan.

THIRD AFFIRMATIVE DEFENSE

Plaintiff’s claims are barred, in whole or in part, under the provisions of the Employee Retirement Income and Security Act of 1974, as amended.

FOURTH AFFIRMATIVE DEFENSE

Plaintiff’s claims are barred, in whole or in part, to the extent it does not possess a valid assignment of any benefits that may be due to the Enrollee(s) under the Plan.

FIFTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred in whole or in part, to the extent Plaintiff and/or the Enrollees failed to timely appeal from any adverse benefits determinations at issue in his matter, and/or failed to exhaust the administrative remedies provided by the Plan.

SIXTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred, in whole or in part, by the doctrines of laches and/or waiver, and/or the applicable statute of limitations.

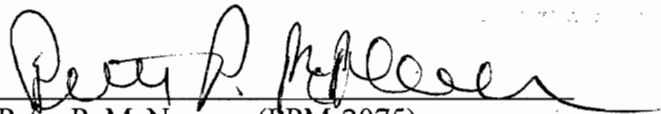
SEVENTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred, in whole or in part, to the extent Plaintiff improperly failed to join the Plan as a party to this action.

WHEREFORE, United requests that the Court enter judgment in its favor dismissing Plaintiff's Complaint in its entirety with prejudice, awarding United its attorneys' fees and costs in this action, and granting to United such other and further relief as this Court may deem just and proper.

Dated: Uniondale, New York
February 28, 2008

Respectfully submitted,



Peter P. McNamara (PPM-2075)

RIVKIN RADLER LLP

Attorneys for Defendant

UNITED HEALTHCARE INSURANCE

COMPANY (sued herein as "United Healthcare of New York, Inc.")

926 RexCorp Plaza

Uniondale, New York 11556-0926

516-357-3000

RR File No.: 009456-00220

TO: Robert A. Santucci, Esq.
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Index No.

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Plaintiff(s),

-against-

UNITED HEALTHCARE OF NEW YORK, INC. and CABLE AND WIRELESS USA, INC.,,

Defendant(s).

AMENDED ANSWER

RIVKIN RADLER LLP

Attorneys for

Defendant, United HealthCare Insurance Company (sued herein
 as "United HealthCare of New York, Inc.")
 926 RECKSON PLAZA
 UNIONDALE, NEW YORK 11556-0926
 (516) 357-3000

FILE# 009456-00220 /

To:

Attorney(s) for

Service of a copy of the within

is hereby admitted.

Dated:

Attorney(s) for

PLEASE TAKE NOTICE

Check Applicable Box

☐
 NOTICE OF
 ENTRY

that the within is a (certified) true copy of a
 entered in the office of the clerk of the within named Court on

20

☐
 NOTICE OF
 SETTLEMENT

that an Order of which the within is a true copy will be presented for settlement to the Hon.
 one of the judges of the within named Court,
 at

on

20

, at

M.

Dated:

RIVKIN RADLER LLP

Attorneys for

926 RECKSON PLAZA
 UNIONDALE, NEW YORK 11556-0926

To:

FILE# _____/